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Attorneys for Movant

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re)	Bankruptcy Case No.
)	4:10-bk-22049-EWH
DAVID POOLE GOSWITZ,)	
)	
Debtor)	
_____)	Chapter 13
STERLING BANK & TRUST,)	
)	
Movant,)	MOTION FOR ORDER CONFIRMING
)	AUTOMATIC STAY IS NOT IN
vs.)	EFFECT
)	
DAVID POOLE GOSWITZ, Debtor;)	
DIANNE C. KERNS, Chapter 13 Trustee,)	
)	
Respondents.)	
_____)	

Sterling Bank & Trust ("Movant"), secured creditor, hereby moves that the Court enter an Order Confirming the Automatic Stay of 11 U.S.C. §362(a) is not in effect in this case, pursuant to 11 U.S.C. §362(c)(4)(a)(ii). The bases of the Movant's Motion are set forth in the Memorandum attached hereto.

1 Dated this 15th day of July, 2010.

2 GUST ROSENFELD, P.L.C.

3 /s/ Gerard R. O'Meara
4 GERARD R. O'MEARA, ESQ.
5 *gromeara@gustlaw.com*

6 MEMORANDUM

7 FACTS:

8 On or about July 14, 2010, David P. Goswitz ("Debtor") filed his Chapter 13
9 Petition in Bankruptcy with this Court. Upon information and belief, Debtor has filed three
10 individual Chapter 13 cases in the year preceding this most recent Petition, all of which were
11 subsequently dismissed:

12 4:09-bk-25699-EWH. Filed October 13, 2009, dismissed December 3, 2009.

13 4:09-bk-31711-EWH. Filed December 9, 2009, dismissed March 6, 2010.

14 4:09-bk-08828-EWH. Filed March 30, 2010, dismissed May 5, 2010.

15 According to 11 U.S.C. §362(c)(4)(A)(i), if a debtor has filed two or more single
16 or joint cases within the past year that were dismissed, the automatic stay does not go into effect
17 upon the filing of the newest case.

18 Movant holds a lien on Debtor's real property located at **2910 East Croyden**
19 **Street, Tucson, AZ 85716** ("Subject Property"). A Trustee's Sale of the Subject Property is
20 scheduled for July 22, 2010.

21 REQUEST FOR RELIEF:

22 The Movant requests that the Court enter an Order Confirming the Automatic
23 Stay of 11 U.S.C. §362(a) is not in effect in this case, pursuant to 11 U.S.C. §362(c)(4)(a)(ii),
24 prior to the scheduled Trustee's Sale on July 22, 2010. This Debtor has continually abused the
25 judicial process with serial filings in order to evade paying his creditors. He should not be
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afforded the protection of the automatic stay.

Respectfully submitted this 15th day of July, 2010.

GUST ROSENFELD, P.L.C.

/s/ Gerard R. O'Meara
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